

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THOMAS M. KELLEY,
Plaintiff,

v.

Civil Action No. 05-10596-NMG

TOWN OF PLYMOUTH, et al
Defendants.

**ASSENTED TO PLAINTIFF'S MOTION TO EXTEND TIME TO
FILE REBUTTAL MEMORANDUM TO DEFENDANTS' MOTION TO STRIKE
AND TO CONTINUE HEARING ON THE SUMMARY JUDGMENT**

The Plaintiff, Thomas M. Kelley, respectfully moves this Court to enlarge the time to file his opposition to the Defendants' Motion to Strike and a rebuttal memo to Defendants' Reply to Plaintiff's Opposition to Defendants' Motion for Summary Judgment and to continue the October 23, 2007, hearing on the Defendants' Motion for Summary Judgment and Plaintiff's Opposition. The Plaintiff requests that this Court allow him until November 15, 2007, to file said Rebuttal Memorandum and Opposition to Defendants' Motion to Strike and to continue the hearing date in accordance with this deadline. An Assented Second Motion to Reschedule the Pre-Trial and Trial is filed herewith.

As grounds for his motion, the Plaintiff states as follows:

1. The Plaintiff filed his Opposition to the Defendants' Motion for Summary Judgment on September 13, 2007. The Defendants had the Plaintiff's Opposition in hand 28 days prior to filing his Motion to Reply and Motion to Strike.
2. On September 28, 2007, the Court issued an order for Hearing on the Defendants' Motion for Summary Judgment for October 23, 2007, at 2:30 p.m.
3. The Defendants' Reply Memorandum raises new defenses not included in

their original Motion for Summary Judgment, as well as extensive law not referenced in their original Memorandum in Support of their Motion for Summary Judgment.

4. Pursuant to Local Rule 7.1, the Plaintiff has 14 days to respond to the Defendants' Reply memo, or until October 25, 2007, which goes beyond the hearing date scheduled for October 23, 2007.

5. Neither the parties nor the Court will suffer any prejudice by this brief extension of time for the Plaintiff to file his rebuttal and reschedule the summary judgment hearing.

6. On October 15, 2007, Attorney Joseph Gallitano telephoned counsel for the Defendants, Attorney Jeremy Silverfine, requesting his assent to this Motion. Attorney Silverfine has assented to this Motion.

For the foregoing reasons the Plaintiff respectfully requests that the Court allow this Motion to enlarge the time to respond to the Defendants' Reply Memorandum and Opposition to Defendants' Motion to Strike up to and including November 15, 2007.

Respectfully submitted,

Thomas M. Kelley, Plaintiff,
by his attorneys,

/s/ Joseph R. Gallitano
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Dated: October 15, 2007

Assented to:

/s/ Jeremy Silverfine

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